

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-01-DT-523
Thomas A. Brothers)	NAL/Acct. No. 200232360004
Berkley, Michigan)	FRN: 0006-1077-26

MEMORANDUM OPINION AND ORDER

Adopted: December 20, 2002

Released: December 24, 2002

By the Chief, Enforcement Bureau:

1. In this *Memorandum Opinion and Order* (“*Order*”), we grant, to the extent noted, Thomas A. Brothers’s (“Mr. Brothers”) petition for reconsideration of a *Forfeiture Order*¹ we issued imposing a \$10,000 forfeiture assessment against him for willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended (“Act”).² The noted violations involve Mr. Brothers’s operation of an FM station on 88.3 MHz without a license. As explained below, we cancel the \$10,000 forfeiture based on Mr. Brothers’s demonstrated inability to pay.

2. On January 14, 2002, the District Director of the Enforcement Bureau’s Detroit, Michigan Office issued a *Notice of Apparent Liability for Forfeiture* (“*NAL*”) to Mr. Brothers for willfully and repeatedly violating Section 301 of the Act by operating an FM station without a license.³ On June 6, 2002, we issued a *Forfeiture Order* affirming the \$10,000 forfeiture proposed by the *NAL*. We noted in the *Forfeiture Order* that Mr. Brothers had not filed a response to the *NAL*, and affirmed the *Forfeiture Order* based on the information before us. On July 3, 2002, Mr. Brothers filed what he styled as a “response” to the *NAL*, which we are treating as a petition for reconsideration of our *Forfeiture Order* pursuant to Sections 1.80(i) and 1.106 of the Commission’s Rules (“Rules”).⁴

3. In his petition for reconsideration, Mr. Brothers does not dispute that he willfully and repeatedly violated Section 301 of the Act. However, he asks that we cancel the \$10,000 forfeiture because of, among other things, his inability to pay. The financial documentation that he provides demonstrates his inability to pay and leads us to conclude that cancellation of the \$10,000 forfeiture assessment is warranted in this case.

¹ *Thomas A. Brothers.*, 17 FCC Rcd 10,550 (Enf. Bur. 2002).

² 47 U.S.C. § 301.

³ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200232360004 (Enf. Bur., Detroit Office rel. Jan. 14, 2002), *erratum*, NAL/Acct. No. 200232360004 (Enf. Bur., Detroit Office rel. Jan. 28, 2002).

⁴ *See* 47 C.F.R. §§ 1.80(i), 1.106.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 405, 503(b)(2)(D), and 504(b) of the Act and Sections 1.80(i) and 1.106 of the Rules,⁵ Mr. Brothers's petition for reconsideration **IS GRANTED TO THE EXTENT NOTED HEREIN**.

6. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by first class mail and certified mail, return receipt requested, to Thomas A. Brothers, 6808 Norborne Avenue, Dearborn Heights, Michigan 48127.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁵ 47 U.S.C. §§ 405, 503(b)(2)(D), 504(b); 47 C.F.R. §§ 1.80(i), 1.106.